IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Re: Appeal to the Board of Patent Appeals and Interferences

Appellants: Mark G. Meyer et al.) Examiner: Tramar Yong Harper

Serial No: 10/612,307) Group Art Unit: 3714

Filed: July 2, 2003) Deposit Account No: 04-1403

Confirmation No: 4054) Customer No: 22827

Title: Lottery Game Method) Attorney Docket No: SGI-0009

1. ☐ **NOTICE OF APPEAL**: Pursuant to 37 CFR 41.31, Applicant hereby appeals to the Board of Appeals from the decision dated _____ of the Examiner twice/finally rejecting claims _____.

2. ☐ **BRIEF** on appeal in this application pursuant to 37 CFR 41.37 is transmitted herewith (1 copy).

3. ☐ An **ORAL HEARING** is respectfully requested under 37 CFR 41.47 (due within two months after Examiner's Answer).

4. ☒ Reply Brief under 37 CFR 41.41(b) is transmitted herewith (1 copy).

5. ☐ "Small entity" verified statement filed: [ ] herewith [ ] previously.

6. **FEE CALCULATION:**   **Fees**

    If box 1 above is X'd enter $ 510.00 $ _____0.00

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PETITION is hereby made to extend the original due date of _____, hereby made for an extension to cover the date this response is filed for which the requisite fee is enclosed (1 month $120; 2 months $460; 3 months $1,050; 4 months $1,640, 5 months $2,230 $ _____0.00

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Less any previous fee paid for prior Notice of Appeal since Board did not render a decision on the merits. MPEP § 1204.01   - $ _____0.00

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☐ herewith, enter one-half (½) of subtotal and <u>subtract</u>   - $ _____ 0.00

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☐   Fee enclosed.

☐   Charge fee to our Deposit Account/Order Nos. in the heading hereof (for which purpose one <u>additional</u> copy of this sheet is attached)

☒   Charge to credit card (attach Credit Card Payment Form – PTO 2038)

☐   Fee <u>NOT</u> required since paid in prior appeal in which the Board of Appeals did <u>not</u> render a decision on the merits.

The Commissioner is hereby authorized to charge any fee specifically authorized hereafter, or any fees in addition to the fee(s) filed, or asserted to be filed, or which should have been filed herewith or concerning any paper filed hereafter, and which may be required under Rules 16-18 (<u>deficiency only</u>) now or hereafter relative to this application and the resulting official document under Rule 20, or credit any overpayment, to our Account No. shown in the heading hereof. This statement <u>does not</u> <u>authorize</u> charge of the <u>issue fee</u> in this case.

DORITY & MANNING ATTORNEYS AT LAW, P.A.

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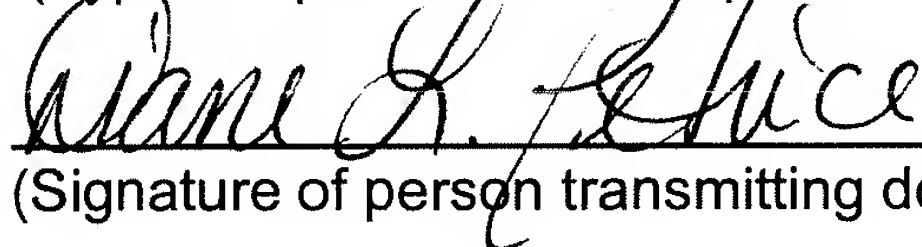Facsimile: (864) 233-7342   Date: _____ <u>July 1, 2008</u> _____

I hereby certify that this correspondence and all attachments and any fee(s) are being electronically transmitted via the internet to the U.S. Patent and Trademark Office using the Electronic Patent Filing System on <u>July 1, 2008</u> .

_____ Diane L. Petrice _____
(Typed or printed name of person transmitting documents)

_____
(Signature of person transmitting documents)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	
Mark G. Meyer et. al.	)	Examiner: Robert E. Pezzuto
	)	
Serial No: 10/612,307	)	Art Unit: 3714
	)	
Filed: July 2, 2003	)	Confirmation No.: 4054
	)	
Title: Lottery Game Method	)	Deposit Acct. No: 04-1403
	)	
_____)		Client ID: 22827

REPLY BRIEF

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The Applicants respectfully submit the enclosed Reply Brief in accordance with

37 C.F.R. § 41.41.

I.   REAL PARTY IN INTEREST

The assignee Scientific Games International Inc. is the real party in interest.

II.   RELATED APPEALS AND INTERFERENCES

See Applicants' Appeal Brief

III.   STATUS OF CLAIMS

See Applicants' Appeal Brief

IV.   STATUS OF AMENDMENTS

See Applicants' Appeal Brief

V.   SUMMARY OF CLAIMED SUBJECT MATER

See Applicants' Appeal Brief

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

See Applicants' Appeal Brief

VII. ARGUMENT

Reply to Examiner's Answer

In the Examiner's Answer, the Examiner states that "Walker discloses determining a value payout for winning a plurality of entries on a single play." (Ex. Ans. at 10). In particular, the Examiner states that the meta-game of Walker "can be interpreted as a game within a game or part of an overall game." (Ex. Ans. at 11). The Examiner further argues "the meta-game/enhanced payout is part of the lottery game itself and the lottery game in its entirety is the single game." (Ex. Ans. at 12). Applicants respectfully disagree.

Contrary to the Examiner's assertions, the meta-game of Walker is a completely separate supplemental lottery game that is different from the primary lottery game. In particular, the Summary of the Invention section of Walker discloses:

> Embodiments of the present invention provide a system and method by which players participating in a primary lottery drawing <u>may elect to participate in a second or derivative lottery drawing (hereinafter a "meta-game")</u>.

(Walker, col. 2 line 66 to col. 3, line 8). To be eligible to play in the separate, supplemental meta-game, a player must register separately for the meta-game (*see* Walker, col. 3, l. 9-13). Simply because a player may register for the second, supplemental meta-game in the same transaction as the primary lottery game does not transform the meta-game into a game within a game or part of an overall game.

For at least this reason, the combination of Walker with Powerball fails to teach a value payout for winning a plurality of sets <u>on a single play</u> that is different than the sum

of a plurality of individual payouts for winning each set individually. In this regard, Applicants respectfully assert that the combination of Powerball and Walker '408 fails to disclose each limitation recited in the claims.

VIII. CLAIMS APPENDIX A

See attached listing of pending claims involved in this appeal.

IX. EVIDENCE APPENDIX B

Applicants do not rely on any evidence submitted pursuant to 37 CFR 1.130, 1.131, or 1.132 or any other evidence entered by the examiner in this appeal.
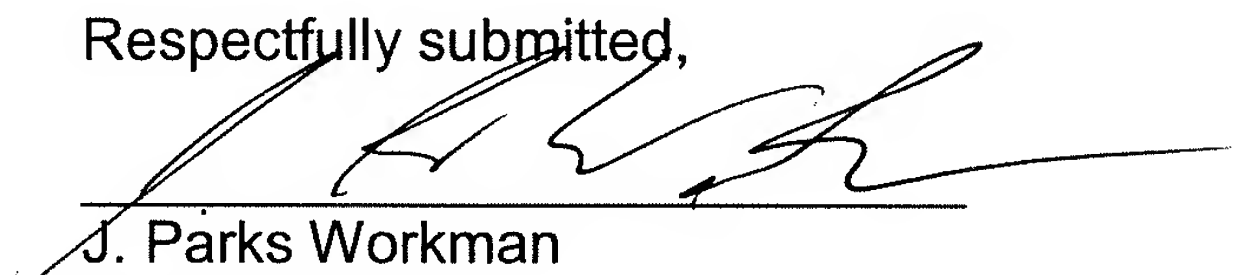
X. RELATED PROCEEDINGS APPENDIX C

Applicants are not aware of any decision rendered by a court of the Board in any related appeals or interferences.

For at least the reasons discussed above and the reasons set forth in Applicants' Appeal Brief, the Applicants respectfully submit that the final rejection of claims 1-42 should be reversed and that the application be remanded to the Examiner for allowance.

Respectfully submitted,

July 1, 2008

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APPENDIX A – PENDING CLAIMS

The following is a listing of the claims involved in this appeal:

1.   A gaming method, comprising:

receiving player symbol data indicative of a plurality of sets of player symbols associated with a player for a single play of a game, wherein each player symbol is selected from a plurality of possible symbols;

receiving an indication that the player submitted a wager associated with the plurality of sets of player symbols for a single play;

receiving winning symbol data indicative of a set of winning symbols from the plurality of possible symbols;

determining a value payout based on respective numbers of winning symbols in respective sets of player symbols, wherein for at least some value payouts the value payout for winning a plurality of sets on the single play is different than a sum of a plurality of individual value payouts for winning each set individually, each individual payout based on the respective number of winning symbols in the corresponding set of player symbols; and

transmitting player payout data indicative of the value payout.

2.   A gaming method according to claim 1, wherein determining the value payout comprises looking up the value payout in a multi-dimensional lookup table based on the respective numbers of winning symbols in each set of the plurality of sets of player symbols.

3.   A gaming method according to claim 1, wherein for at least a first subset of the at least some of the value payouts, the value payout is greater than the sum of the plurality of individual value payouts.

4.   A gaming method according to claim 3, wherein for a second subset of the at least some of the value payouts, the value payout is less than the sum of the plurality of individual value payouts.

5.   A gaming method according to claim 1, wherein determining the value payout further comprises determining a base payout based on the plurality of individual payouts.

6.   A gaming method according to claim 5, wherein determining the value payout further comprises:

if the base payout is greater than zero, determining the value payout as the base payout; and

if the base payout is zero, determining the value payout based on a sum of the respective numbers of winning symbols in the plurality of sets of player symbols.

7.   A gaming method according to claim 5, wherein determining the value payout further comprises:

determining a bonus payout based on a sum of the respective numbers of winning symbols in the plurality of sets of player symbols;

determining the value payout as the greater of the base payout and the bonus payout.

8. A gaming method according to claim 5, wherein determining the value payout further comprises:

determining a bonus payout based on a sum of the respective numbers of winning symbols in the plurality of sets of player symbols;

determining the value payout as the sum of the base payout and the bonus payout.

9. A gaming method according to claim 5, wherein determining the base payout comprises determining a maximum individual payout of the plurality of individual payouts.

10. A gaming method according to claim 5, wherein determining the base payout comprises determining a sum of the plurality of individual payouts.

11. A gaming method according to claim 1, wherein each set of the plurality of sets of player symbols includes the same number of symbols.

12. A gaming method according to claim 11, wherein the set of winning symbols includes the same number of symbols as each set of the plurality of sets of player symbols.

13. A gaming method according to claim 11, wherein the set of winning symbols includes a different number of symbols as each set of the plurality, of sets of player symbols.

14. A gaming method according to claim 11, wherein the plurality of sets of player symbols includes at most a maximum number of sets of player symbols.

15. A gaming method according to claim 14, wherein the maximum number of sets of player symbols is selected from the group of numbers consisting of 2, 3, 4, and 5.

16. A gaming method according to claim 14, wherein the maximum number of sets of player symbols is greater than 5.

17. A gaming method according to claim 1, wherein at least two sets of the plurality of sets of player symbols include different numbers of symbols.

18. A gaming method according to claim 1, wherein the respective numbers of winning symbols in respective sets of player symbols reflect each occurrence of a winning symbol that occurs multiple times in the plurality, of sets of selected symbols.

19.   A lottery gaming method according to claim 1, wherein the respective numbers of winning symbols in respective sets of player symbols reflect only one occurrence of a winning symbol that occurs multiple times in the plurality of sets of selected symbols.

20.   A gaming method according to claim 1, wherein the symbols in the set of winning symbols are randomly selected.

21.   A gaining method according to claim 20, further comprising randomly selecting objects from a plurality of objects, wherein each object of the plurality of objects is associated with a respective one of the plurality of possible symbols, wherein the randomly selected objects correspond to the set of winning symbols.

22.   A gaining method according to claim 1, wherein the symbols in the set of winning symbols are pseudo-randomly selected.

23.   A gaming method according to claim 22, wherein pseudo-randomly selecting the set of winning symbols comprises pseudo randomly generating the set of winning symbols using a processor.

24.   A gaming method according to claim 1, wherein each symbol of the set of winning symbols is selected from the plurality of possible symbols.

25.   A gaming method according to claim 1, wherein at least some symbols of the set of winning symbols are selected from a subset of the plurality of possible symbols that excludes previously selected winning symbols.

26.   A gaming method according to claim 1, wherein symbols in at least one set of the plurality of sets of player symbols are chosen by the player.

27.   A gaming method according to claim 26, wherein symbols in one set of the plurality of sets of player symbols are chosen by the player; wherein symbols in the remaining sets of the plurality of sets of player symbols are pseudo-randomly generated.

28.   A gaming method according to claim 26, wherein symbols in all of the sets of the plurality of sets of player symbols are chosen by the player.

29.   A gaming method according to claim 1, wherein symbols in all of the sets of the plurality of sets of player symbols are pseudo-randomly generated.

30.   A gaming server, comprising:

a controller operatively coupled to a network, the controller comprising a microprocessor and a memory operatively coupled to the microprocessor, the controller configured to receive player symbol data via the network, the player symbol data indicative of a plurality of sets of player symbols associated with a player for a single

play of a game, wherein each player symbol is selected from a plurality of possible symbols;

the controller configured to receive, via the network, an indication that the player has submitted a wager for a plurality of sets of player symbols in a single play;

the controller configured to receive winning symbol data indicative of a set of winning symbols from the plurality of possible symbols;

the controller configured to determine a value payout based on respective numbers of winning symbols in respective sets of player symbols, wherein for at least some value payouts the value payout for winning a plurality of sets on the single play is different than a sum of a plurality of individual value payouts for winning each set individually, each individual payout based on the respective number of winning symbols in the corresponding set of player symbols; and

the controller configured to transmit, via the network, player payout data indicative of the value payout.

31.   A gaming server as defined in claim 30, wherein the controller is configured to receive the player selected symbol data from a lottery terminal operatively coupled to the network.

32.   A gaming server as defined in claim 30, wherein the controller is configured to receive the player symbol data from a personal computing device operatively coupled to the network.

33.   A gaming server as defined in claim 30, wherein the controller is configured to receive the indication that the player has submitted the wager from a lottery terminal operatively coupled to the network.

34.   A gaming server as defined in claim 30, wherein the controller is configured to receive the indication that the player has submitted the wager from a personal computing device operatively coupled to the network.

35.   A gaming method, comprising:

receiving a wager for a plurality of sets of player symbols in a single play of a game from a player;

determining a plurality of sets of player symbols associated with the player for a single a play, wherein each player symbol is selected from a plurality of possible symbols;

selecting a set of winning symbols from the plurality of possible symbols;

determining a value payout based on respective numbers of winning symbols in respective sets of player symbols, wherein for at least some value payouts the value payout for winning a plurality of sets on the single play is different than a sum of a plurality of individual value payouts for winning each set individually, each individual payout based on the respective number of winning symbols in the corresponding set of player symbols; and

providing the value payout, if any, to the player.

36. A gaming method as defined in claim 35, wherein determining the plurality of sets of player symbols comprises allowing the player to select symbols in at least one set of the plurality of sets of player symbols.

37. A gaming method as defined in claim 36, wherein determining the plurality of sets of player symbols comprises:

allowing the player to select only set of the plurality of sets of player symbols; and

pseudo-randomly determining the remaining sets the plurality of sets of player symbols.

38. A gaming method as defined in claim 35, wherein determining the plurality of sets of player symbols comprises allowing the player to select the symbols in the plurality of sets of player symbols.

39. A gaming method, comprising:

receiving a wager from a player;

determining a plurality of sets of player symbols associated with the player in a single play of a game, wherein each player symbol is selected from a plurality of possible symbols;

determining a value payout based on respective numbers of winning symbols in respective sets of player symbols, wherein the winning symbols are from a set of winning symbols from the plurality of possible symbols, wherein for at least some value

payouts the value payout for winning a plurality of sets on the single play is different than a sum of a plurality of individual value payouts for winning each set individually, each individual payout based on the respective number of winning symbols in the corresponding set of player symbols; and

       providing the value payout, if any, to the player.

       40.   A gaming method as defined in claim 39, further comprising selecting a set of winning symbols from the plurality of possible symbols.

       41.   A gaming method as defined in claim 39, further comprising receiving winning symbol data indicative of the set of winning symbols.

       42.   A gaming apparatus, comprising:

a value input device;

a controller operatively coupled to a network and to the value input device, the controller comprising a microprocessor and a memory operatively coupled to the microprocessor,

       the controller configured to determine a wager for a plurality of sets of player symbols in a single play of a game has been received from a player via the value input device;

       the controller configured to determine a plurality of sets of player symbols associated with the player for a single play, wherein each player symbol is selected from a plurality of possible symbols;

the controller configured to determine a value payout based on respective numbers of winning symbols in respective sets of player symbols, wherein the winning symbols are from a set of winning symbols from the plurality of possible symbols, wherein for at least some value payouts the value payout for winning a plurality of sets on the single play is different than a sum of a plurality of individual value payouts for winning each set individually, each individual payout based on the respective number of winning symbols in the corresponding set of player symbols; and

the controller configured to provide the value payout, if any, to the player.

APPENDIX B – EVIDENCE

None.

APPENDIX C - RELATED PROCEEDINGS

None.